

1 ALDERSON REPORTING COMPANY

2 SARAH JURA

3 HGO342290

4 MOVING AHEAD FOR PROGRESS IN THE 21ST

5 CENTURY [MAP-21] PROGRAM CONSOLIDATION

6 Tuesday, December 8, 2015

7 House of Representatives,

8 Subcommittee on Transportation and Public

9 Assets,

10 Committee on Oversight and Government Reform,

11 Washington, D.C.

12 The subcommittee met, pursuant to call, at 2:14 p.m., in

13 Room 2247, Rayburn House Office Building, Hon. John Mica

14 [chairman of the subcommittee] presiding.

15 Present: Representatives Mica, Amash, Duncan, Grothman,

16 Massie, Turner, Boyle, Watson Coleman, DeSaulnier, and

17 Duckworth.

18

19 Mr. Mica. Good afternoon. I would like to welcome
20 everyone and call this hearing of the subcommittee of
21 Government Oversight and Reform. Our subcommittee's title
22 is Transportation and Public Assets. I call this hearing
23 to order.

24 Welcome, everyone. And we will probably have some
25 votes, but I would like to try to get our witnesses heard,
26 and if we have to go back and forth, we will have to recess
27 during those votes.

28 The title of today's subcommittee hearing is "Moving
29 Ahead for Progress in the 21st Century" talking about MAP-
30 21 and some of the program consolidation elimination and
31 where we are with that.

32 We have three official witnesses. The Federal Highway
33 Administration, Department of Transportation has two folks
34 who will be participating also.

35 So the order of business will be opening statements,
36 and I will start with mine and will defer to other Members.
37 We will leave the record open for a period of 10 days for
38 additional testimony or comments from Members or questions
39 for our panelists.

40 So with that, I will start with my opening remarks, and
41 then I will yield to Ms. Duckworth.

42 Today's hearing is being called -- it is kind of
43 interesting because this is the eve, the end of MAP-21
44 legislation we adopted a little over 3 years ago, and I had
45 the chance to chair the committee at that time. It is
46 commonly known as MAP-21. And within the last few days, we
47 have enacted new legislation, FAST legislation, I guess, is
48 the nickname for it. But it carries on where a lot of the
49 policy which was established in MAP-21 some 3 years ago set
50 forth a whole series of significant changes, some
51 consolidation, some elimination of programs, and also
52 importantly, devolution to some of the States. We tried to
53 expedite a process, tried to eliminate, again, some of the
54 duplications, and save taxpayers money, put more money in
55 the hands of those who are actually doing these
56 infrastructure projects.

57 So this is one of the first times that we have had a
58 chance to look at where we have been with MAP-21, and then
59 we want to build on that with the new legislation just
60 signed into law. And if there are some problems with
61 operational standpoint from the Department, I know they try
62 to comply but I think this is a good time to see how they
63 have complied and get some of the facts as to what they
64 have done to try to streamline the process, eliminate some

65 of the duplication, and then devolve to those closest to
66 projects the actual responsibility.

67 So we know that section 1301 of MAP-21 tasks the
68 Secretary with identifying opportunities for States to
69 assume responsibilities for again a whole host of
70 activities, permitting being one of them, and then actually
71 operating and functioning in some of the responsibilities
72 previously tasked in Washington to the Federal Government.

73 So we said specifically in the bill that we want that
74 done in a manner that protects public health, the
75 environment, and also involves public participation.

76 So today, we are here to see again, take an inventory
77 of where we are, where we have come, and where we need to
78 go. We will look at the secretarial responsibilities such
79 as environmental permitting or determinations regarding
80 environmental rule. We want to judge if DOT has made
81 available some of those opportunities for States. We will
82 probably hear some problems. We will probably hear some
83 success stories, I think, from one of our witnesses.

84 So our focus today is, again, whether the provisions of
85 MAP-21 that were intended to make DOT more efficient and
86 provide more flexibilities and devolve responsibilities to
87 the State and other entities are in fact achieving the

88 objectives we set out for.

89 So I look forward to hearing from our witnesses and
90 participation. I think this can be a very positive lead
91 into the new legislation that we have just adopted.

92 [The information follows:]

93

94 Mr. Mica. So those are my opening comments. Let me
95 now yield to our distinguished ranking member
96 Ms. Duckworth.

97 Ms. Duckworth. Thank you, Mr. Chairman. And I will
98 have to rely on your expertise since I was not here when
99 MAP-21 was passed. And I am sure the institutional
100 knowledge that you have will be very valuable in this
101 hearing.

102 I want to thank you for holding today's hearing on MAP-
103 21. This important bipartisan legislation included very
104 important provisions that consolidated service
105 transportation programs and mandated the use of performance
106 management measures.

107 Congress has an essential oversight role in ensuring
108 that these good government reforms are implemented
109 properly, and I look forward to hearing from our witnesses
110 today on the state of that implementation.

111 Last week, I was proud to join 358 of my colleagues in
112 the House to pass the FAST Act, which authorizes
113 approximately \$300 billion to be invested in Federal
114 highway and public transportation projects over the next 5
115 years.

116 Most importantly, this bipartisan act addressed my

117 three transportation policy priorities, it provides States
118 and industry with a certainty, it strengthens public
119 safety, and invests in innovative, multimodal transit
120 solutions. When I travel home to Illinois' Eighth
121 Congressional District, my local transportation community
122 is constantly asking me why Washington can't come together
123 to compromise on a long-term solution, and they have grown
124 frustrated with the short-term, kick-the-can, bandaid fixes
125 that prevent States and local government from effectively
126 planning long-term projects.

127 So I am especially pleased that Congress has worked in
128 a bipartisan manner to craft legislation that includes 5
129 years of funding at adequate levels. I am particularly
130 relieved that, according to the Illinois Department of
131 Transportation, the FAST Act will provide my home State
132 with nearly \$3 billion in public transit investments, the
133 fourth-highest allotment behind only New York, California,
134 and New Jersey, and approximately \$7.5 billion in total
135 highway investments.

136 However, it is important to note that while the FAST
137 Act represents progress, it is far from perfect. Indeed, I
138 am cosponsoring the GROW AMERICA Act, which authorizes \$478
139 billion to rebuild our infrastructure over a 6-year period.

140 I am on record supporting a bill that would provide States
141 with even greater levels of investment and certainty than
142 the FAST Act.

143 In my view, investing in American infrastructure is the
144 ultimate taxpayer win-win. It sustains well-paying
145 American transportation industry jobs and it creates new
146 ones. Investing in American infrastructure is one of the
147 most effective fiscal policy options to increase economic
148 growth and employment. And yet, despite our nation's
149 crumbling system of roads and bridges and the public
150 support for investing their tax dollars in local projects
151 that create new American jobs, Congress remains unable or
152 unwilling to dramatically increase investments in our
153 transportation system.

154 At the same time, the American Society of Civil
155 Engineers gave America's roads a grade of D in its 2013
156 Infrastructure Report Card, and furthermore, their 2014
157 report card for my home State of Illinois the findings are
158 just as disturbing. The report states that severe traffic
159 congestion costs Illinois' economy billions of dollars in
160 lost productivity each year. Congestion is estimated to
161 cost approximately \$4 billion annually for the Chicago area
162 alone, and 42 percent of Illinois' major roads are in poor

163 or mediocre condition. Driving on those roads cost
164 Illinois motorists \$3.7 billion a year in extra vehicle
165 repairs and operating costs. This is simply unacceptable,
166 especially when multiplied by 50.

167 The FAST Act is a step in the right direction, but
168 further action is needed. I would simply note that it is
169 my hope that over the next 5 years Congress can work in a
170 bipartisan fashion to develop a truly sustainable and long-
171 term infrastructure solution for our nation.

172 Throughout our nation's history, our economic growth
173 has been driven by significant infrastructure investments
174 from the construction of the Erie Canal in 1807 to the
175 creation of the transcontinental railroad in 1869 to
176 President Eisenhower's visionary establishment of the
177 interstate highway system in the 1950s. It is our
178 responsibility to preserve this proud legacy and continue
179 in making important investments to enhance America's
180 ability to thrive and compete well into the 21st century.

181 Again, I would like to thank you for holding the
182 hearing, and I yield back.

183 [The information follows:]

184

185 Mr. Mica. I thank the gentlelady. And again, we will
186 leave the record open for other Members who wish to submit
187 a statement.

188 And now, I would like to recognize our panel of
189 witnesses. I am pleased to welcome first Mr. Thomas
190 Echikson. And he is the chief counsel at the Federal
191 Highway Administration, Department of Transportation. Mr.
192 Echikson is accompanied by two experts from the Federal
193 Highway Administration, and I am going to swear them in,
194 too, which we will do everyone in just a few minutes. One
195 of those is staffer Brian Bezio, chief financial officer of
196 the Federal Highway Administration. The other is Mr. Peter
197 Stephanos, who is director of the Office of Transportation
198 Performance Management of FHWA.

199 I also welcome Mr. David Zachry, chairman of the
200 American Road and Transportation Builders Association.

201 And then our other witness is Mr. Carlos Swonke, and is
202 the director of Environmental Affairs at the Texas
203 Department of Transportation. We appreciate his traveling
204 up to be with us and his participation today.

205 So I want to welcome all of you. This is an
206 investigations and oversight subcommittee, so I will ask
207 all of you to stand and the two that are behind you that

208 are going to testify, raise your right hand.

209 [Witnesses sworn.]

210 Mr. Mica. All of the witnesses answered in the
211 affirmative. And we will let the record reflect that.

212 I am not sure who has been before us before, but we try
213 to have you give us a little 5-minute presentation. If you
214 have lengthy materials you would like added to the record,
215 just request that through the chair.

216 So we will proceed and we will hear from Mr. Thomas
217 Echikson, Chief Counsel of the Federal Highway
218 Administration, USDOT. Welcome, sir, and you are
219 recognized.

220

221 STATEMENTS OF THOMAS G. ECHIKSON, CHIEF COUNSEL, FEDERAL
222 HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION,
223 ACCOMPANIED BY BRIAN BEZIO, CHIEF FINANCIAL OFFICER, AND
224 PETER STEPHANOS, DIRECTOR OF THE OFFICE OF TRANSPORTATION
225 PERFORMANCE MANAGEMENT; DAVID S. ZACHRY, CHAIRMAN, AMERICAN
226 ROAD AND TRANSPORTATION BUILDERS ASSOCIATION; AND CARLOS
227 SWONKE, DIRECTOR, ENVIRONMENTAL AFFAIRS, TEXAS DEPARTMENT
228 OF TRANSPORTATION

229 STATEMENT OF THOMAS G. ECHIKSON

230 Mr. Echikson. Thank you, Chairman Mica and Ranking
231 Member Duckworth. Thank you for inviting me here today to
232 discuss program consolidation under MAP-21 and provisions
233 within it that are designed to accelerate project delivery.

234 With me today are Brian Bezio, our chief finance
235 officer; and Peter Stephanos, director of our Office of
236 Transportation Performance Management. They are experts in
237 some of the topics you may wish to discuss today and are
238 available to answer questions, as am I.

239 Before discussing MAP-21, it's important to mention
240 that just last Friday President Obama signed the Fixing
241 America's Surface Transportation Act, the FAST Act, into

242 law, marking the first long-term transportation funding
243 bill Congress has passed in 10 years. Thought the FAST Act
244 isn't perfect, it reflects bipartisan compromise and ends
245 the long cycle of uncertainty for State DOTs. I assure you
246 that the Department is already hard at work implementing
247 the FAST Act, and we will continue to do so in the days and
248 months ahead.

249 MAP-21 consolidated FHWA's programs into a smaller
250 number of broader programs. These new programs, however,
251 retain and continue the eligibilities that have previously
252 existed. This modified program structure provides our
253 grantees with greater flexibility to deliver projects more
254 efficiently. It also allows our grantees to make data-
255 driven decisions in order to meet performance targets.

256 Notwithstanding MAP-21's program consolidation, the
257 same activities previously authorized remain eligible for
258 funding under MAP-21. As such, neither the number nor the
259 complexity of the projects and activities that we oversee
260 has diminished. Throughout the country, FHWA personnel
261 remain focused on overseeing a \$42 billion program that is
262 going to grow over the next 5 years, protecting taxpayers
263 by ensuring that Federal funds are spent in accordance with
264 the law. In fact, more than two-thirds of FHWA's employees

265 are located in our field offices working directly with
266 State DOTs to deliver projects.

267 The cornerstone of MAP-21's Federal highway program
268 transformation was the adoption of a performance-based
269 program. The Department has been working diligently to
270 finalize the performance management rules. As the GAO has
271 recognized, completing these rules has been an arduous
272 task. The performance management requirements cover a
273 number of areas at varying maturity levels. In some cases
274 we have had to establish the new methods, standards, and
275 data sources necessary to implement an effective national
276 program. Because State and MPOs will need to comply with
277 these new requirements, it has been particularly important
278 for DOT to engage with these stakeholders and carefully
279 consider the impact on them.

280 FHWA is looking forward to the benefits that
281 performance-based policy framework will bring in terms of
282 helping States focus their expenditures where they are most
283 needed. Implementing the performance management
284 requirements and assisting States and MPOs as they
285 transition towards this framework remains a priority at
286 FHWA. We believe performance management is a key tool to
287 prepare the Federal-aid Highway Program for the future.

288 MAP-21 also included provisions designed to support
289 innovation and improve efficiency in the delivery of
290 transportation projects, and this complemented the
291 successes of FHWA's Every Day Counts partnership with
292 States, local governments, and the private sector. We
293 believe these provisions, together with our EDC efforts,
294 are helping move projects from concept to completion more
295 efficiently, saving time and money and allowing the public
296 to enjoy the benefits of upgraded infrastructure more
297 quickly.

298 Immediately after passage of MAP-21, FHWA began working
299 aggressively to implement these provisions by conducting
300 outreach sessions with stakeholders, issuing guidance, and
301 working collaboratively with other Federal agencies. These
302 efforts helped us advance rulemaking and guidance documents
303 in accordance with statutory deadlines and identify and
304 resolve concerns from agency partners. We have now
305 completed all the project delivery rulemakings with a
306 statutory deadline and continue our broader efforts under
307 EDC to improve and expedite the delivery of highway
308 projects.

309 Mr. Chairman, thank you again for the invitation to
310 appear here today on behalf of FHWA. This concludes my

311 remarks, and I look forward to your questions.

312 [Prepared statement of Mr. Echikson follows:]

313

314 Mr. Mica. Okay. And they are not going to give
315 opening testimony, but Brian Bezio and Peter Stephanos,
316 come on up and take your chairs here.

317 And we will turn to the next witness, which is
318 Mr. David Zachry, chairman of the American Road and
319 Transportation Builders Association. Welcome, sir, and you
320 are recognized.

321

322 STATEMENT OF DAVID S. ZACHRY

323 Mr. Zachry. Thank you, Chairman Mica, Representative
324 Duckworth. I'm David Zachry. I'm CEO and president of
325 Zachry Corporation in San Antonio, Texas, and I'm here
326 today on behalf of the American Road and Transportation
327 Builders Association where I'm honored to serve as the
328 chairman.

329 Chairman Mica, if I can begin by commending you for
330 your leadership over many years in working to cut through
331 the bureaucratic red tape that has plagued transportation
332 project planning and approval process. You made great
333 contributions to this effort as the lead author of MAP-21.
334 We also appreciate the subcommittee convening this session
335 to review progress in this area since MAP-21's enactment.

336 Project delays not only waste Federal resources, they
337 also delay mobility and safety enhancements and stifle job
338 and economic growth. The 2012 MAP-21 surface
339 transportation law commendably and appropriately attempted
340 to shorten the 9 to 19 months or years it takes to plan,
341 gain approval of, and construct a major new federally
342 funded highway project.

343 Among MAP-21's many significant reforms was an

344 expansion in the use of categorical exclusions, or CEs. A
345 CE is used when projects create minimal impacts on the
346 environment. Under MAP-21, most TE projects were
347 automatically classified as CEs, including those in
348 response to emergency situations and projects undertaken
349 within an existing right-of-way.

350 These -- the use of CEs can shave years off an
351 environmental review process. For example, the emergency
352 CE was put in -- put to use in May 2013 when a truck hit
353 the I-5 Skagit River Bridge in Mount Vernon, Washington.
354 Application of the CE allowed repairs to the bridge to
355 begin within 24 hours of the accident and allowed the
356 bridge to reopen to traffic after only 27 days.

357 MAP-21 also expanded the opportunity for States to
358 conduct their own environmental reviews. Both California
359 and Texas have taken advantage of this opportunity. Ohio
360 is poised to do the same, and Florida and Utah have also
361 indicated their interest.

362 The initial results are very positive. California said
363 it has been able to reduce the amount of time for most --
364 for the most complicated environmental review documents by
365 years. Though Texas was only approved for the program late
366 last year, it is estimated an average time savings of 25

367 percent for project reviews. However, it's important to
368 note that these, as well as many other MAP-21 reforms, are
369 discretionary, not mandatory. The more State and Federal
370 agencies choose to use the opportunities afforded by MAP-
371 21, the greater will be its impact.

372 On a separate topic, MAP-21 included a provision
373 originating in the House Reauthorization Proposal directing
374 USDOT to provide transparency regarding the use of Federal
375 highway funds. Similar to what the Federal Government did
376 with the highway funds spent from the economic stimulus
377 bill, this tool had the potential to provide a real
378 tangible connection to the taxpayers by explaining exactly
379 how the money they sent to the Federal Government is spent
380 on projects in their States and communities. More than a
381 year after expiration of the MAP-21, these efforts have yet
382 to be started.

383 Mr. Chairman, we commend the USDOT for telling the
384 public how \$27 billion in highway stimulus funds were
385 spent. The same treatment should apply to the \$80 billion
386 in core highway improvements that occurred over the same
387 time period.

388 Unfortunately, there are not many examples yet of the
389 time- and money-saving benefits MAP-21 reforms could

390 provide. The MAP-21 reforms are aimed at large, complex,
391 very expensive, multiyear projects. Without the assurance
392 of stable and predictable long-term Federal funding, States
393 are often reluctant to proceed with these types of
394 projects. The recent enactment of a 5-year reauthorization
395 bill should help remedy this concern.

396 Mr. Chairman, Representative Duckworth, ARTBA deeply
397 appreciates the opportunity to take part in today's
398 discussion. I look forward to answering any questions you
399 might have.

400 [Prepared statement of Mr. Zachry follows:]

401

402 Mr. Mica. Thank you. We will hold questions and we
403 will now hear from Carlos Swonke. He is the director of
404 environmental affairs, Texas Department of Transportation.
405 Thanks for being with us. You are recognized.
406

407 STATEMENT OF CARLOS SWONKE

408 Mr. Swonke. Thank you. Chairman Mica, Ranking Member
409 Duckworth, my name is Carlos Swonke. I am the director of
410 the Environmental Affairs Division at the Texas Department
411 of Transportation.

412 TxDOT appreciates the opportunity to provide testimony
413 to the subcommittee meeting here today and to provide our
414 experiences with implementing some of MAP-21's
415 environmental streamlining initiatives.

416 Since the -- since its passage and subsequent
417 rulemaking, TxDOT has taken advantage of many of the
418 streamlining provisions. In my testimony, I've also
419 offered comments on program consolidation and total
420 interoperability.

421 TxDOT environmentally approved over 1,800 projects last
422 year. Our project delivery program involves billions of
423 dollars worth of projects and is highly dependent upon an
424 environmental process that is efficient and predictable.
425 Provisions in MAP-21 helped us to improve our efficiency
426 and the predictability of the environmental process. I'll
427 provide some specific examples here.

428 Section 1313 of MAP-21 made permanent the Service

429 Transportation Project Delivery program, which allows
430 States to assume environmental approval authority under the
431 National Environmental Policy Act typically reserved for
432 the Federal Highway Administration. In September of 2014,
433 FHWA finalized the rule establishing the program. On
434 December 16 of last year, TxDOT and FHWA executed the
435 Memorandum of Understanding allowing TxDOT to participate
436 in the program.

437 The general benefits of NEPA assignment come from the
438 removal of a layer of review in the environmental process
439 and the increase in independent decision-making of the
440 State DOT.

441 Even though we have been in the program for a year, it
442 is difficult at this time to quantify the time savings
443 we've realized. The reason is because larger projects may
444 have an environmental review that extends several years.
445 As such, we have not had the opportunity to start and
446 finish a large project with the NEPA assignment authority.
447 I will say that we are seeing a trend that shows that
448 projects being approved with an environmental assessment of
449 NEPA classification, these projects are taking closer to 2
450 years as opposed to the average of about 3 years prior to
451 NEPA assignment.

452 I can also say that smaller projects -- time frames for
453 smaller projects that are approved with categorical
454 exclusion determinations are now being measured in days and
455 weeks instead of months or years. I'll talk more about the
456 MAP-21 categorical exclusions in a moment.

457 I feel confident in saying that TxDOT's transition to
458 and implementation of NEPA assignment has been successful.
459 We are seeing time savings. I can also say that our
460 internal program is more organized and our process more
461 predictable. The success is owed to TxDOT leadership, who
462 have been tremendously supportive, and TxDOT environmental
463 staff, who are committed to making the program work.

464 As you probably know, California has been working under
465 full NEPA assignment program since it was authorized as a
466 pilot program 8 years ago. TxDOT is the first to pursue
467 full NEPA assignment under the MAP-21 changes. I know of
468 at least four other States that are pursuing NEPA
469 assignment at this time. They are Ohio, Utah, Florida, and
470 Alaska. The six of our States talk frequently. FHWA has
471 also been helpful in facilitating the conversation between
472 the States on this issue.

473 Now, I'll transition over to the MAP-21 categorical
474 exclusions and mention one in particular. Section 1316 of

475 MAP-21 created the new categorical exclusion for work done
476 in the operational right-of-way. FHWA finalized the rule
477 for this new categorical exclusion on January 3 of last
478 year. TxDOT has utilized this categorical exclusion about
479 343 times over the past year. It is sometimes used for
480 routine work where another type of a categorical exclusion
481 may have applied, but we've also used it for larger
482 projects where a more time-consuming environmental
483 assessment would have been necessary without the
484 availability of this categorical exclusion. In these
485 instances, it has been a terrific time-saver. Given all
486 this talk about time savings, you may begin to wonder about
487 compliance or if the environment is being sacrificed in any
488 particular way.

489 To prepare for NEPA assignment in our program, we made
490 our internal process more rigorous. This was also in part
491 to prepare for the audits by FHWA, as required by the
492 program. I think it's fair to say that our analysis of
493 project impacts and emphasis on regulatory compliance is as
494 strong as it's ever been.

495 I've mentioned here what I think are the largest MAP-21
496 game-changers for our environmental program. There are
497 certainly a number of other MAP-21 provisions that we've

498 used and we've found to be beneficial. With the limitation
499 on time, I'll offer up information on these as you see fit
500 or as follow-up, and I'm happy to answer any questions.

501 [Prepared statement of Mr. Swonke follows:]

502

503 Mr. Mica. Thank you all. We have about 3 minutes
504 before we are going to have to go vote, and you might want
505 to get a -- yes, I was going to say you might need a little
506 bit more time.

507 I understand also, Mr. Swonke, you may have to leave to
508 catch a plane. Is that true or --

509 Mr. Swonke. No.

510 Mr. Mica. You are okay?

511 Mr. Swonke. I'm okay.

512 Mr. Mica. Oh, good. You are going to have dinner with
513 us. Thanks.

514 Okay. Well, we are going to recess in just a minute
515 and I want to pick up with questions. What have we got?
516 So let me think, probably recess for about a half-hour.
517 Yes. Probably recess for about a half-hour. We will
518 probably have two votes. If you could sort of be back
519 around a little after 3:00, we would appreciate it, and
520 then we can get to the questions. So we will stand in
521 recess until that time and appreciate your indulgence.
522 Thank you.

523 [Recess.]

524 Mr. Mica. I would like to call the subcommittee
525 hearing back to order.

526 And, unfortunately, this is going to continue this
527 afternoon for a little while, these interruptions, but we
528 do want to proceed. And I will make sure and we will keep
529 the staff advised as to how much time we consume with
530 questions. But we will go to some questions, and I will
531 start. And then we will afford Ms. Duckworth or the
532 minority as much or more time, whatever they need.

533 This is sort of a meat-and-potatoes hearing. It is not
534 a flashy one with indictments planned, at least this week.
535 But in any event, the purpose of it is, again, as we pass
536 MAP-21, our intent was there to try to discontinue some
537 programs at the Federal level or consolidate programs. I
538 have a status of MAP-21 consolidation. Do we have copies
539 of this that we can give to the witnesses? Maybe we could.
540 But it says 52 programs identified by DOT has being
541 affected, some 31 programs were allegedly discontinued, and
542 then it says 15 programs consolidated into other programs.
543 Two programs' eligibilities included research programs to
544 program set-aside and one program with many eligibilities
545 contain transportation alternatives and one program
546 continued substantially changed.

547 Now, we heard Mr. Echikson talk a little bit about what
548 DOT had done. I asked a question as to how -- and he

549 described some time setting standards that he basically
550 also testified that basically they had finished most of
551 that setting the standards, needed time to set standards,
552 and then you testified it is now completed or it has been
553 completed for the most part, and personnel were used in
554 that process.

555 So far, we can find only about 20 FTEs that may have
556 been eliminated. Maybe you could tell us where we are now.
557 In your testimony you spoke to, again, some positions being
558 needed to get us to where we are and where we might go.
559 That is a long question but maybe you could respond.

560 Mr. Echikson. Well, what MAP-21 did, the way I like to
561 think of it is you had a pie, Federal-aid highway pie.
562 It's 40 billion, 41 billion, now 43 and increasing. Before
563 MAP-21 there were 50-odd programs so you have 50 slices of
564 that pie. Now, post-MAP-21, we've got six or seven slices
565 of the pie but the pie itself is the same size. The types
566 of projects that are being done are the same size. So
567 while the programs were consolidated or sometimes
568 eliminated, all the projects that we're overseeing and all
569 that work in terms of providing stewardship and oversight
570 to the States continues. So it really doesn't affect our
571 FTEs.

572 Mr. Mica. Some were devolved to California and Texas,
573 for example.

574 Mr. Echikson. Well, that's correct, under our
575 provision where we assigned NEPA to Texas and to
576 California. The people who were responsible for doing that
577 work, that was some of the work they were responsible for
578 in our field offices. They have now other work that they
579 do to oversee the State program.

580 In addition, in both California and in Texas, we still
581 are --

582 Mr. Mica. Has there been no diminish in personnel
583 needed for Texas and California?

584 Mr. Echikson. There --

585 Mr. Mica. Because they are pretty big States. I mean
586 Texas just testified 1,800 projects. Is that correct?

587 Mr. Swonke. Yes, that is correct. Yes, in the past
588 year.

589 Mr. Mica. Okay. You actually came into play about a
590 year ago --

591 Mr. Swonke. Exactly.

592 Mr. Mica. -- the approval.

593 Mr. Swonke. Yes.

594 Mr. Mica. But that took over 2 years to get the

595 approval, right?

596 Mr. Swonke. It was approaching 2 years, yes --

597 Mr. Mica. Yes.

598 Mr. Swonke. -- when you start with our State

599 legislation, too, the MOU, yes.

600 Mr. Echikson. Right, so we negotiated -- I think we

601 had to promulgate the rule. They had to agree to waive

602 sovereign immunity, and then it took about a year with

603 Texas really being the first one we had in the post-MAP-21

604 where we had one of these MOUs. We're nearly final with

605 Ohio and we just last week received an application from

606 Utah. And so I think with Texas paving the way we've --

607 Mr. Mica. Okay. You have answered some questions. I

608 know Florida was trying, when Ananth Prasad was the

609 Secretary, to take over the IJR, interchange justification

610 process report, at the State level, and I think another

611 State had already done that. Has Texas taken over IJR's?

612 Mr. Swonke. Texas has not taken over the IJR's yet.

613 Mr. Mica. Well, and he told me it was just a few

614 months. Now, he has been gone a year, and I asked most

615 recently Florida if that had been taken over, and they said

616 no. What is the story there in trying to get more

617 approvals done? A lot of what we looked at, too, in the

618 permitting, the same requirements were at the State level
619 that were at the Federal level, so we were just going over
620 the same thing at the Federal level, whereas we were trying
621 to get the State to assume that. And then you set the
622 standards. They had some approval process, but it hasn't
623 worked out exactly the way we intended it because we still
624 have almost as many Fed people working on the projects as
625 we had before.

626 Mr. Echikson. Well, we have devolved in Texas in
627 particular, you know, a lot of the responsibilities. And
628 IJR's, I'm going to need to get back to you. I don't know
629 the specific story as far as --

630 Mr. Mica. Do either of these guys know, your --

631 Mr. Echikson. That's not really their area --

632 Mr. Mica. No? No?

633 Mr. Echikson. -- of responsibility --

634 Mr. Mica. Okay. Could you --

635 Mr. Echikson. -- but we can get back to you.

636 Mr. Mica. Yes.

637 Mr. Echikson. Sure.

638 Mr. Mica. But, again, trying to devolve as much as we
639 can to the States, we don't have to eliminate positions but
640 through attrition we can absorb some of the positions. But

641 somehow, it doesn't seem like our original intent to
642 consolidate, to eliminate as much of the Federal role. And
643 again, you have got a couple big States now taking that
644 over. Ohio is a good-sized State, maybe Florida, Utah.
645 But at some point the rules have been set. We don't need
646 all of those rule-setting people.

647 Is it correct that there are only about 20 positions
648 that have been eliminated?

649 Mr. Echikson. Well, I would not tie any elimination of
650 positions to MAP-21. We have in fact reduced our FTEs --

651 Mr. Mica. That is not good news.

652 Mr. Echikson. As I explained, the purpose of MAP-21 --
653 or we see it as there was a reduction in the number of
654 programs, but our responsibility is to oversee the Federal-
655 aid Highway Program remained. And it still requires --
656 we've got fewer people now overseeing a larger program.

657 Mr. Mica. Well, only larger the last week?

658 Mr. Echikson. Well, \$42 billion program and --

659 Mr. Mica. And that should be overseeing at a smaller
660 level because you have two big States which now have more
661 responsibility at the local and State level than they do at
662 the Federal.

663 Mr. Echikson. They have responsibility to do their

664 NEPA work, their environmental work, and we no longer in
665 California and to some extent in Texas -- there's a
666 transition period because we're still carrying on some
667 projects. Those people's responsibilities have been -- we
668 no longer have people doing that. They're exercising over
669 responsibilities to oversee the program.

670 I'd also point out in Texas and California and in any
671 other State border projects, projects that cross State
672 borders or international borders, remain the responsibility
673 of FHWA.

674 Mr. Mica. You can see that, but again, I don't know,
675 maybe we need to get an inspector general to look at what
676 is going on. Maybe we need sort of an analysis of what can
677 be done as effectively at the local level with some Federal
678 check-offs. Or, again, you testified you had set standards
679 and that work is now complete, and you don't see any
680 possibility of reducing the personnel?

681 Mr. Echikson. I wouldn't tie it to that. I think a
682 lot of the work we've done to implement the project -- I
683 mean, we've implemented rules, issued guidance,
684 particularly those that had statutory deadlines --

685 Mr. Mica. And that is done.

686 Mr. Echikson. -- to expedite delivery of projects

687 and --

688 Mr. Mica. That is done. Now, you would audit -- it
689 would be more of an audit or from time to time modifying
690 those rules, but it doesn't seem like you need the full-
691 court press of Federal bureaucrats doing that.

692 Maybe Mr. Swonke -- I am telling you it was very
693 difficult to get anybody to come and testify. They are all
694 terrified of DOT. And now, with authority for 5 years,
695 they are afraid you all are going to hammer them if you
696 come and say something. I don't like that at all. If I
697 have to put bags on their head and subpoena them and bring
698 them in here, we are going to find out what we can do more
699 efficiently getting information from people who were seeing
700 it.

701 But I go back to the district, in Florida, I go around
702 the country, and I am hearing the same thing. The Feds
703 still have our -- they are just moving the red tape around,
704 and the intent and purpose of MAP-21 wasn't just to do
705 that. So I don't know if you want to comment and risk all
706 of your Federal funding, Mr. Swonke. Go right ahead. What
707 are you seeing?

708 And actually, this is a good news story because they
709 have taken it -- and a tangential question, have you all

710 sent out anything to the State DOTs saying that we now have
711 completed the rules, we now have these things, standards in
712 place, and that you can do such-and-such?

713 Mr. Echikson. Well, we --

714 Mr. Mica. Has there been such a communication?

715 Mr. Echikson. We have been in constant -- we're
716 constantly in communication. We have an office in every
717 State that works very closely --

718 Mr. Mica. But if you have a letter --

719 Mr. Echikson. -- with the State DOTs --

720 Mr. Mica. -- that has gone out to them, I would like
721 to see that as part of the record, okay?

722 Mr. Echikson. Yes, sir.

723 Mr. Mica. If I you haven't, well, maybe the staff --
724 we can ask Secretary Foxx to get something out because it
725 does take a while to get the rules of the game in place.
726 The rules are in place, and now, we want folks to know what
727 the opportunities are, relieving some of your
728 responsibility. You could probably do great things in
729 Washington, and again, we could also eliminate some of the
730 red tape.

731 But back to Mr. Swonke, tell us your experience and
732 where you have been. You have seen the process and then

733 what do you see is the potential?

734 Mr. Swonke. Yes. I think, first off, getting into the
735 program, the NEPA assignment program, you know, there is
736 that time frame, but I think Tom did explain well that we
737 started into or towards pursuing the program prior to the
738 final rulemaking. And that was, you know, with the
739 approval and the working relationship with Federal highways
740 that we had, moving towards that, saying we'll work with
741 you to apply -- to get your application going despite the
742 rules not being finalized yet. And so we very much
743 appreciated that working relationship.

744 And so that, combined with our internal process,
745 reworking and waiting for the final rule to come out and
746 then getting our MOU executed, I think, you know, that
747 should -- is probably not the typical time frame for the --
748 to gauge what it takes to get entry into the program
749 because we were first and we were started before the final
750 rule was in place.

751 Working with our FHWA should be a division office and
752 headquarters as well. They were very supportive in getting
753 us into the NEPA assignment program. And so the -- you
754 know, especially from the headquarters level, their
755 cooperation and their understanding of getting us ready, I

756 think, is something that we would describe as a
757 partnership. So I would say that that has been a -- that
758 was a positive experience.

759 Mr. Mica. Okay. And do you see the potential for this
760 -- well, for your role in taking on more responsibilities,
761 is that possible? Do you think you will need additional
762 legislation to accomplish that? And is there anything in
763 the new legislation you think that will help you move
764 forward even faster?

765 Mr. Swonke. I think the way it is laid out now the
766 application process in the MOU is very workable in the
767 States that I mentioned earlier that are pursuing it now,
768 have moved along fairly quickly. You know, the MOU that we
769 negotiate or worked with Federal highways with has been
770 used as a template moving forward and --

771 Mr. Mica. Okay. Is that the same that California is
772 using? Are they both -- other than the names, but are they
773 basically the same?

774 Mr. Echikson. There are some differences because
775 California was in a pilot program before MAP-21, and we're
776 actually in the process of renewing California's assignment
777 and --

778 Mr. Mica. And you have one MOU that would be available

779 for the States that want to sign up?

780 Mr. Echikson. It is absolutely -- I think what we'll
781 see in Ohio is very, very close. There's a --

782 Mr. Mica. And how long would the --

783 Mr. Echikson. -- distinction --

784 Mr. Mica. -- Ohio approval process -- you said about a
785 year for --

786 Mr. Echikson. For our process?

787 Mr. Mica. Yes, to do the MOU and --

788 Mr. Echikson. Well, the MOU itself was probably close
789 to a year, maybe 10 months or so. But again, there were
790 some exceptional issues with that.

791 Mr. Mica. Okay.

792 Mr. Echikson. So Ohio, I believe we received the
793 formal application in April, and we're -- it should be done
794 by the end of this year. So that's a shorter period of
795 time, and I anticipate with the recent application from
796 Utah that we will move promptly.

797 There is a process that has to go through. There's a
798 public input --

799 Mr. Mica. Right.

800 Mr. Echikson. -- that needs to be sought and so on,
801 but I think the process has reduced. And everybody sort of

802 understands, as Carlos explained, the States are in
803 contact. They know what we're looking for and what's
804 expected of them. And we also assist them. We provide
805 training on certain steps that they need to take
806 responsibility for, how to do legal sufficiency reviews,
807 how to do, you know -- and we train them in how to do the
808 work well.

809 Mr. Mica. Mr. Zachry, what have you seen from the road
810 builders' standpoint? How is MAP-21 doing? Maybe you have
811 seen some experience now in Texas and California. Are you
812 seeing -- now, some of you did testify that, let's see,
813 California has sped up the process. I don't know how much.
814 Texas, you said, about 25 percent of the time was whacked
815 off?

816 Mr. Swonke. That's what we're looking at. Again,
817 we're still looking at that data but it looks like we can
818 -- we're -- we should be able to achieve 25 percent. And
819 that's essentially what California has documented for their
820 reduction in time is about 25 percent.

821 Mr. Mica. And what are you hearing from your
822 contractors and road builders, Mr. Zachry?

823 Mr. Zachry. Mr. Chairman, we -- what we hear is -- and
824 what we see, and speaking as a contractor in Texas, not in

825 the capacity as the chairman of ARTBA, what we see is,
826 frankly, more projects coming to bid, coming out to be
827 executed. Again, speaking on my own personal behalf, I
828 don't know exactly which of those projects a categorical
829 exclusion was used on, but they tended to be smaller
830 projects for which that would be an appropriate usage, and
831 there've been -- the number of projects has increased quite
832 a bit --

833 Mr. Mica. Yes.

834 Mr. Zachry. -- in the last 12 to 18 months.

835 Mr. Mica. But the expedited categorical is -- well,
836 that is expedited also and handled under your MOU, right,
837 and California's. But in general, we have also allowed for
838 an expedited categorical exclusion for the Department,
839 right? What are you seeing there, Mr. Echikson?

840 Mr. Echikson. Well, we have completed all the
841 rulemakings and issued new categorical exclusions. We have
842 programmatic --

843 Mr. Mica. When this --

844 Mr. Echikson. -- agreements with the States where --

845 Mr. Mica. How long has that been in place?

846 Mr. Echikson. I'd have to get back to you, but I
847 believe the rule was -- the final rule was issued about a

848 year ago --

849 Mr. Mica. So that took about 2 --

850 Mr. Echikson. -- but I can --

851 Mr. Mica. -- years to get that in place. And maybe
852 again, staff, we can ask either inspector general or GAO to
853 look at -- probably want to try to get a year snapshot and
854 see what improvements have taken place again. And our
855 intent was to try to eliminate red tape, to try to speed up
856 the process.

857 We base some of this, you know, on that -- was that
858 Highway 35, the bridge collapsed, and I stood on the bridge
859 with Members. Mr. Oberstar and I stood on the Floor right
860 after the bridge collapsed and said we would work together
861 to expedite the replacement of that link in the interstate.
862 And I think 435 days later I stood with about a dozen
863 Members of Congress on the bridge, and that was how many
864 days it took to replace that bridge, to finish the project
865 through permitting, through construction.

866 And that was the beginning of a working relationship
867 with Ms. Boxer and other -- California has some of the
868 toughest environmental laws and regulations in the country.
869 But we said if you could do it there, you should be able to
870 do it anywhere. And what we did is we replaced an unsafe

871 bridge with a safe bridge. The bridge that was built many
872 decades ago was not built with any considerations like we
873 have today for the environment. So we stopped dumping
874 polluted water and runoff into the Mississippi River. We
875 actually improved the quality of the natural waters, a
876 safer bridge, and we did it in record time, which also
877 saves a record amount of money because a lot of the --
878 instead of building structures, you are paying for red tape
879 and process. So that was one of our models.

880 And then California was a great example because
881 California has been hit with natural phenomena of
882 earthquakes, and in fact, they have had to rebuild things.
883 And they do it in the best fashion, environmentally
884 sensitive attention, and also in rapid fire, which is what
885 we are trying to speed up.

886 I have more questions but I have been rejoined by our
887 ranking member. I am only 14 minutes over. Is that -- so
888 you have got plenty of time just to -- I will let her ask
889 some questions and we will try to keep it moving.

890 Ms. Duckworth. Thank you, Mr. Chairman. I apologize
891 for my late return. I was under the impression we were
892 going to do another vote right away so I was sitting there
893 and they say, oh, no, no, no, 10 minutes so they will

894 probably interrupt us.

895 But I would like to discuss the need for significant
896 investment. MAP-21 was important legislation, and now that
897 it has been replaced by the new long-term reauthorization,
898 the FAST Act, I sort of want to be sure to continue the
899 spirit of investment.

900 In the Chicagoland area, we have 200 bridges that have
901 been deemed -- and I probably am not getting the technical
902 terms correct, but unsafe but okay to be used or
903 substandard but okay to be used. And I wonder what that
904 means, and I would like to know where those are so that I
905 don't drive over them or have my baby over them.

906 But, Mr. Echikson, can you explain, you know, why the
907 5-year legislation with consistent funding is important to
908 enabling States to move forward with transportation
909 projects, especially when you have something like 200
910 bridges? You can't really -- you know, my understanding,
911 you can't really replace them all, but to sort of look at
912 the long-term effect of the importance of this type of
913 funding for State and municipalities in terms of
914 infrastructure projects.

915 Mr. Echikson. Well, having a long-term bill provides
916 stability, certainty so that States and localities can do

917 their planning. And even on particularly larger projects,
918 they know the money is going to be there.

919 I would agree with you that FAST is a start. We --
920 there's a 2013 Status of the Nation's Highways and Bridges
921 Transit Conditions and Performance Report that was
922 submitted to Congress, and as of 2010, the backlog of unmet
923 highway and bridge needs has grown to -- had grown to about
924 \$800 billion. Addressing that backlog would require about
925 \$145 billion per year. We as a nation spend about \$100
926 billion per year. So we're not even keeping up with that
927 need.

928 FAST is absolutely a great start. It provides that
929 certainty. But I would agree more funding, as we had
930 proposed in the GROW AMERICA Act, is needed.

931 Ms. Duckworth. Mr. Zachry, with the capability that we
932 have, if we were to, you know, be able to fund as much as
933 we want with the capacity for bridge builders and road
934 builders, how long is it going to take us to actually
935 invest and actually do the work if we were to go after, you
936 know, all of the infrastructure, the bridges and the roads
937 in this nation? I mean I would think that the sheer volume
938 of what needs to be done, even if we threw a ton of money
939 at it, it is going to take a while.

940 Mr. Zachry. It would take a while. I have actually
941 never even in my wildest dreams thought about that scenario
942 if there was so much money to do it. You know, you've got
943 issues of workforce development and the skills to actually
944 go out and execute the work, the public entities, the DOTs.
945 FHWA has to administer it and track it. You've got all of
946 the permitting processes that have to go through. If you
947 had an unlimited amount of money to go and try to address
948 it, it would likely still -- it would still take you a
949 decade to -- or something -- I'm making up a number.

950 Ms. Duckworth. Right. Right.

951 Mr. Zachry. It would take many years. And remember
952 that every time you put a road or any transportation
953 system, an airport, anything in service, it immediately
954 starts to degrade. And so you've also got maintenance
955 costs as the system gets expanded. You have an ongoing
956 maintenance requirement that in a lot of States is as
957 significant as a capacity expansion requirement or greater.
958 And so it's -- just because we're spending more money
959 doesn't mean we're not going to have to continue to spend
960 more money.

961 Ms. Duckworth. Can you compare where we are to other
962 nations that we would be competing against? You know, we

963 have talked extensively about the fact that the lack of
964 investment in our infrastructure is something that is
965 actually hurting our economy where we are not able to -- it
966 is costing us money, it is costing commuters money, it is
967 costing businesses money. But, you know, in your position
968 as head of your organization, can you talk a little bit
969 about what is happening internationally and where do we
970 stand in competition with countries that are, you know, our
971 economic partners but are also our competitors, places
972 like, you know, Europe and Asia.

973 Mr. Zachry. I don't have that information in front of
974 me but I'd be happy to get that for you.

975 Ms. Duckworth. Okay. Does somebody else --

976 Mr. Zachry. I know the general discussion is that in
977 certain countries, emerging countries, in China and others,
978 that they spend a greater percentage of their GDP on
979 infrastructure than we do in the U.S.

980 Ms. Duckworth. Okay. Thank you. Mr. Echikson, can
981 you address that a little bit and maybe describe briefly
982 the master performance goals established by MAP-21 for the
983 Federal highway programs as well?

984 Mr. Echikson. I would need to get back to you on how
985 our expenditures compare with other nations, but I'm sure

986 we have that information and we'll get it to you.

987 The national performance measures is -- well, we've
988 done a series of rulemakings. We have proposed all the
989 rules save one. We're hoping to get that out in the first
990 -- so there's six total rules. The last one hopefully will
991 be in the first quarter of 2016. We're moving to finalize
992 the first performance management rule, which deals with
993 safety. And the second performance management rule should
994 also be some time in at least the first 6 months of 2016.
995 And then there's associated rules. There's an update to
996 the Highway Safety --

997 Mr. Stephanos. Improvement.

998 Mr. Echikson. -- Improvement Program, thank you. And
999 also our planning rule --

1000 Ms. Duckworth. So --

1001 Mr. Echikson. -- an asset management rule, excuse me.

1002 Ms. Duckworth. So once you have completed your part on
1003 the rules, how long do the States have to establish the --
1004 I mean how long do you have after you have established
1005 performance measures for the States to implement their
1006 targets?

1007 Mr. Echikson. I'm going to turn this one over to

1008 Mr. Stephanos, who could probably answer that more

1009 accurately than I could.

1010 Mr. Stephanos. They have 1 year from the effective
1011 date of the final rules to establish targets.

1012 Ms. Duckworth. To establish targets. And --

1013 Mr. Stephanos. And --

1014 Ms. Duckworth. -- do you have, as part of the rules or
1015 how long -- how far out they can make those targets?

1016 Mr. Stephanos. We've proposed that the two -- there's
1017 three rulemakings that propose the measures. Two of them
1018 have been issued as proposals. So for the safety rule it's
1019 1 year, so they're setting safety targets for the end of
1020 the next calendar year. And then for our pavements and
1021 bridges, they're setting targets looking out 2 and 4 years.
1022 But in both cases those targets need to be incremental
1023 steps that lead towards longer-term expectations that would
1024 be documented in their long-range plan or asset management
1025 plan.

1026 Ms. Duckworth. So you will set the maximum measure for
1027 the target, right, the time period that they can take. Is
1028 that what you would consider the baseline or is that just
1029 the maximum? I guess my question is do you establish a
1030 baseline and then say, okay, here is the baseline for this
1031 particular target but you can take longer but we prefer

1032 this to be the baseline? And once the targets are set, can
1033 you modify them?

1034 Mr. Stephanos. Yes, I'm sorry. I may have
1035 misunderstood your --

1036 Ms. Duckworth. Okay.

1037 Mr. Stephanos. -- question about timing. When I was
1038 referring to the time frame, it's the time horizon that
1039 they're setting the target to so --

1040 Ms. Duckworth. Right.

1041 Mr. Stephanos. -- for example, they want to reduce
1042 fatalities by a certain number by the end of the next
1043 calendar year. The base that -- we aren't through
1044 rulemaking establishing any minimum standards of what that
1045 target shall be. The baseline that they base the target on
1046 is documented -- is proposed in the rulemaking, what they
1047 already use and where that data is to come from. It would
1048 be the most recent data that they would have had available
1049 and that we have available in the national data source.

1050 And then they do -- to answer your second question
1051 about adjusting that target, for the safety target for 1
1052 year we're proposing that they don't have an opportunity to
1053 adjust that. They set it and they're held accountable to
1054 it. But for the payment bridge targets, the 4-year target

1055 that they would be setting at the 2-year point they have an
1056 opportunity to adjust those targets. How they adjust them
1057 and why they adjust them would be documented on a website
1058 so there's transparency. And then this would recur every 2
1059 years after that point.

1060 Ms. Duckworth. Okay.

1061 Mr. Echikson. If I could just add, it's -- just to be
1062 clear is we set the measure so --

1063 Ms. Duckworth. Okay.

1064 Mr. Echikson. -- fatalities, rate of fatalities, the
1065 number of fatalities, it is the State's responsibility to
1066 set the target in the manner that Mr. Stephanos just
1067 described.

1068 Ms. Duckworth. If that happens and they fail to meet
1069 the target, what happens? What are the consequences of a
1070 State meeting a target that they themselves set to try to
1071 meet your measure? What are the consequences?

1072 Mr. Echikson. It depends on the target, but for the
1073 safety target, if they fail to make significant progress
1074 towards that, they would have to invest certain amount of
1075 money to improve their performance there.

1076 On some of the other targets, pavement, bridges, and
1077 some of the performance management 3, the congestion and

1078 freight and air quality, they may have some reporting
1079 requirements, so additional reporting requirements. And
1080 under the FAST Act, which we're just trying to get a handle
1081 on, there's a new -- if they fail to meet the freight
1082 target, they need to provide a report explaining how
1083 they're going to achieve that target in future years.

1084 Ms. Duckworth. Would their funding be affected?
1085 Because here is the thing that I am worried about, right:
1086 Illinois is a State that is on the verge of bankruptcy. We
1087 are in deep financial trouble. So you could have a State
1088 like Illinois that has set a target but finds that it is
1089 not meeting -- does not have the funds to meet that target.
1090 But then can the Federal funding then be cut as a result of
1091 them not meeting their targets, which puts them further in
1092 the hole?

1093 Mr. Echikson. No, their funding is set by statute.
1094 They will get the same amount of money.

1095 With respect to the safety provisions, if they fail to
1096 meet their safety targets, they'll have to just spend more
1097 of that money to address those safety issues.

1098 Ms. Duckworth. So that is how you would enforce the
1099 State targets is the statute has that mechanism in it?

1100 Mr. Echikson. Correct.

1101 Ms. Duckworth. Okay. Is there any incentive for
1102 States to exceed their targets? What if they do really
1103 well, or to encourage them to pursue more ambitious
1104 targets?

1105 Mr. Echikson. We think -- and again, I might have Pete
1106 expand upon this, but we -- you know, we're trying to be as
1107 transparent about this as possible and so we're setting --
1108 I think the plan and idea is that a lot of this information
1109 is going to be out there in the public. So if a State
1110 fails to set an adequate target or sets a very easy target,
1111 that information is going to be available to the entire
1112 public. So I think there's an incentive for the States
1113 just based on that -- you know, having all of this
1114 information be transparent to try to set targets both that
1115 are realistic that they can achieve but that are ambitious
1116 as well.

1117 Ms. Duckworth. Do you feel that the -- and anyone on
1118 the panel can answer. Do you feel that the deadlines set
1119 in the legislation in the MAP-21 were too ambitious?

1120 Mr. Echikson. Well, I think, as the GAO reported, some
1121 of the rulemaking, particularly in the performance
1122 management area, were very ambitious. It was developing a
1123 whole new program, new standards, new methods, new data.

1124 We're moving through that, and as I said, I expect at least
1125 within the next 6 months we will have two of those three
1126 performance management rules final, and we'll have the
1127 other one proposed. So, yes, they were very ambitious.
1128 We're working as expeditiously as we can to complete them.

1129 Ms. Duckworth. Okay. Well, I am encouraged to hear
1130 about the progress that is being made with the rulemaking.
1131 I think it is important to balance a need to have rules
1132 promulgated in a timely manner, as well as the need to
1133 ensure that the rules are actually carefully vetted and
1134 stakeholders are given the opportunity to express their
1135 views. So I thank you for the hard work that you are
1136 doing.

1137 I yield back, Mr. Chairman.

1138 Mr. Mica. Well, thank you. You know, I was reading
1139 the letter that you all sent us September 22 and looking at
1140 the projects, and then you had listed projects -- I mean
1141 not projects but programs that you had consolidated or
1142 eliminated. I count 12 programs that say not continued
1143 under MAP-21 program is spending down prior balances. So I
1144 count 12 that would be eliminated at the Federal level. Is
1145 that right, Mr. Echikson?

1146 Mr. Echikson. That's correct. The States are

1147 responsible -- that money is still available for the States
1148 to spend, and they -- you know, we're encouraging them and
1149 working with them to --

1150 Mr. Mica. Would we say after that this could result in
1151 some reduction in positions at the Federal level?

1152 Mr. Echikson. Again, with all due respect, the size of
1153 the Federal-aid Highway Program hasn't changed. The
1154 eligibilities for these different programs are now captured
1155 under, say, the Surface Transportation, the STP program, a
1156 lot more flexibility for the States to focus those
1157 expenditures as they deem appropriate.

1158 Mr. Mica. But it doesn't require the same Federal
1159 oversight? All of these -- maybe you could send us, too, a
1160 list of who was involved in those positions previously, and
1161 then where they have been absorbed to.

1162 Mr. Echikson. I can see what we can get you, but we're
1163 not organized by program. We're organized by function. So
1164 we have people --

1165 Mr. Mica. Okay. Well, function, the Appalachian
1166 Development Highway System, it says not continued under
1167 MAP-21. So was there somebody in charge of that before? I
1168 can get your old directory and look these people up.

1169 Mr. Echikson. There may have been somebody in charge

1170 of that program but --

1171 Mr. Mica. Do you guys know, the two -- was there
1172 somebody in charge of that before, people in an office?
1173 Was there an office?

1174 Mr. Bezio. That was a function within an office.
1175 There was a person that -- one of their collateral duties
1176 was to oversee the Appalachian Development Highway
1177 System --

1178 Mr. Echikson. Yes.

1179 Mr. Bezio. -- and they still do so. Those balances
1180 are out there for States that -- balances are available
1181 until expended, so those balances will spend down over many
1182 more years going forward. So it's one of their many
1183 collateral duties in their office --

1184 Mr. Mica. So you can't really get rid of a program per
1185 se?

1186 Mr. Bezio. You -- it -- eventually, it'll be
1187 eliminated --

1188 Mr. Mica. Yes, that is what I am saying --

1189 Mr. Bezio. It eventually will be --

1190 Mr. Mica. -- but that was 3 years ago. This is, last
1191 time I checked, 2015, 3 years.

1192 Mr. Bezio. Right.

1193 Mr. Mica. I am not sure if we took care of this in new
1194 legislation. I am sure we didn't. But I have got at least
1195 a dozen here you reported to me on that situation, not to
1196 mention -- consolidation I can see, consolidated with
1197 another one. But this says spending down prior balances
1198 and how long they would go. We don't do earmarks anymore,
1199 so I have got to find out from the Transportation Committee
1200 your progress in spending these balances down.

1201 Now, I could have probably -- Mr. Echikson, I could
1202 have probably given a better case than you did on what you
1203 have done. If you go back and look at what you sent me --
1204 I should put this in the record and I will for you.

1205 [The information follows:]

1206

1207 Mr. Mica. In 2003 you had 2,366 FTEs. We were
1208 administering \$30 billion, 31. It was 30.8. In 2012 you
1209 had \$40 billion and you had 2,302, which is fewer people
1210 than in 2003. See, I would have touted that. Tell Foxx
1211 that you guys need to tout yourself on that kind of stuff.
1212 But then in 2014 that is where we went down to 2,281. Now,
1213 what I would like to do is to either have GAO or the IG
1214 come back and tell us -- you are telling us how many
1215 projects you work on, and I think we need to look at those.
1216 This is dollars. What are you going up to in this program
1217 under MAP-21 for the next year, do you know, Echikson?

1218 Mr. Echikson. I believe it's around \$43 billion.

1219 Mr. Mica. So it is going up \$3 billion. But I want to
1220 go back and look at anecdotally and chronologically the
1221 number of projects that were involved. So let's get that
1222 from either them or the IG or GAO when we do this little
1223 report. So we will see how many actual projects you were
1224 doing. You have \$3 billion more. Well, it is only \$1
1225 billion more because it is 42 currently. And then we will
1226 look at these dozen programs and how long the spending down
1227 of prior balances is expected to continue. Maybe we can
1228 get the prior balances for all of those programs. So those
1229 are some of the things we would like to see.

1230 Now, I have a couple of other questions. In the bill
1231 we opened the door for -- and here you go, Echikson.
1232 Again, this gave you some new responsibilities under
1233 public-private partnerships. I am familiar with the one we
1234 have in central Florida, which in record time was open. I
1235 hope it wasn't just because I was chairman. But we are
1236 doing a \$2.4 billion adding tolls to the center median. We
1237 kept free lanes free. As the Federal Government, my
1238 philosophy is the Federal taxpayers already paid for them
1239 so we shouldn't be charging for them again. But we said
1240 the right-of-way inside medians, some of those assets could
1241 be converted as long as they were adding capacity.

1242 Now, we had the \$2.4 billion central Florida project.
1243 Maybe Zachry or Echikson, some of you guys might know how
1244 many others have taken advantage of a similar expansion of
1245 capacity through a public-private partnership. And that
1246 would be -- Echikson, here is where you pipe in and you
1247 say, well, we have new responsibilities like your new road
1248 in central Florida, Mr. Mica. We add that in. Any idea,
1249 Zachry?

1250 Mr. Zachry. I don't have a number, Mr. Chairman --

1251 Mr. Mica. If you do, maybe you could check that, get
1252 it back to --

1253 Mr. Zachry. Yes, sir. Absolutely.

1254 Mr. Mica. I would like to see did that have an impact.

1255 I know it did in my community. I have heard of several

1256 others looking at that option.

1257 Echikson, do you know anything about it?

1258 Mr. Echikson. Well, our TIFIA office works very

1259 closely with -- and has helped in --

1260 Mr. Mica. You raised TIFIA and I did a billion in

1261 TIFIA, didn't we? And I think it went down by 60 percent.

1262 Can you tell us what --

1263 Mr. Bezio. I believe it's \$287 billion in the FAST.

1264 Mr. Echikson. Yes.

1265 Mr. Stephanos. Yes.

1266 Mr. Mica. Yes. So it has actually gone down. Did we

1267 spend out the billion in TIFIA?

1268 Mr. Bezio. It is not fully spent down but I --

1269 Mr. Mica. That is one of those --

1270 Mr. Bezio. -- have information in front of me.

1271 Mr. Mica. But obviously, there isn't as much money

1272 available. I am not happy about that. That was a real

1273 screw up they did --

1274 Ms. Duckworth. Yes.

1275 Mr. Mica. -- transportation infrastructure financing.

1276 Ms. Duckworth. They are not spending it.

1277 Mr. Mica. Well, and that is another good question for
1278 these guys is finding out how many TIFIA programs they had,
1279 how many people were involved, and how much was spent down
1280 and how much was unspent. They may have done that in
1281 taking the money down. I don't know if that was a reason.
1282 At one time I heard there were four or five times the
1283 dollar number of requests that we had or even more, but now
1284 we have lessened that. Do you know anything about that,
1285 Zachry?

1286 Mr. Zachry. Well, sir, I've heard that same general
1287 statistic that you had. I saw something recently about the
1288 percentage of TIFIA funding that was utilized by each
1289 State. And I think the largest was actually Texas that had
1290 availed itself of 20 percent of the total program dollars
1291 from TIFIA. But again, I don't know how many specific
1292 projects were tied up with either TIFIA or on a P3 basis.

1293 Mr. Mica. Okay. Well, and does anyone know anything
1294 more about the public-private partnerships, any information
1295 on that?

1296 Mr. Echikson. I have a little more information --

1297 Mr. Mica. Yes, go ahead.

1298 Mr. Echikson. -- which is you mentioned the I-4

1299 project.

1300 Mr. Mica. Yes.

1301 Mr. Echikson. I think that was what you were referring
1302 to. We've used P3 projects on the Goethals Bridge, the
1303 Portsmouth Bypass in Ohio, and SH-22 is now -- or 288,
1304 excuse me, is taking advantage of the P3 process. On TIFIA
1305 we have 59 TIFIA loans that we've closed. So it has been a
1306 very effective project.

1307 Mr. Mica. Yes.

1308 Mr. Echikson. We're fully supportive of public-private
1309 partnerships.

1310 Mr. Mica. Well, see, and, Echikson, next time you come
1311 in and say, oh, Mr. Chairman, because of your great work on
1312 MAP-21 and you put more into TIFIA, we did 59 projects that
1313 required more personnel because of what you did on the
1314 public-private partnerships. You have got yours in Orlando
1315 and then you just named the others, make sure to get a list
1316 of those because I want to use that. But that does take
1317 more personnel, too.

1318 I don't mind giving DOT additional personnel, but also
1319 our intent was to try to devolve as much as we could of the
1320 red tape that Mr. Swonke talked about that I can't get the
1321 others to come and testify on that you are still imposing

1322 because some of those folks have stayed in DOT even though
1323 we have tried to devolve some activities, as many as
1324 possible to the local level, and they have a new role
1325 justifying their existence. And that is what concerns me.
1326 Do you see my point?

1327 Mr. Echikson. I do but I would say we're fully
1328 supportive of the devolution of certain requirements. The
1329 CEs, the States are responsible for all these CEs. They
1330 have to report to us but there's not much -- there's
1331 limited oversight by FHWA except when they tried to create
1332 a new CE. But on the CEs that were developed in the
1333 statute --

1334 Mr. Mica. And then --

1335 Mr. Echikson. -- that you referred to --

1336 Mr. Mica. And then, again, you could come in and say
1337 that we have gone from whatever it was, more back in 2003
1338 with less money, and I am sure it would be less projects
1339 and doing more. So I am trying to make your case for you
1340 for DOT. I will help you out with the testimony next time.

1341 Mr. Echikson. Thank you.

1342 Mr. Mica. All right. But I think it would be very
1343 helpful if we look at this, where our success is, where we
1344 can get you out of the red tape business, where we can

1345 devolve to the States, where they could get more money back
1346 quicker to the States because they turn the projects around
1347 quickly.

1348 You told me you went to 1,800. What was like your
1349 previous record?

1350 Mr. Swonke. We were -- that's about what we've done in
1351 the past couple of years, but before that, it was more
1352 below 1,500, more like in the 12 to 1,400 range.

1353 Mr. Mica. You are talking actually what you testified
1354 to about 25 percent more efficiency out of it. When we did
1355 the road show for the MAP-21, we took the committee across
1356 the country, and we just heard one place after another cut
1357 the red tape, there are things that we can do locally, less
1358 in Washington, more State and local, and we could get the
1359 money out faster, get the projects done and approved
1360 faster. And sometimes you don't want to degrade the
1361 environment in any event, but sometimes there are very
1362 similar -- and in fact, I think California and some of the
1363 States have even tougher environmental requirements than
1364 the Federal Government. Is that not the case, Mr. Zachry,
1365 Mr. Echikson?

1366 Mr. Zachry. At least our perspective, yes, sir, that
1367 California has very rigorous environmental standards that

1368 as a general rule exceed Federal --

1369 Mr. Mica. Yes.

1370 Mr. Zachry. -- requirements.

1371 Mr. Mica. And we negotiated MAP-21. Of course,
1372 Ms. Boxer is still the ranking person there, but she was
1373 chair and she wasn't going to give one inch on any issue
1374 regarding the environment that she felt wasn't being
1375 protected by actions and MAP-21.

1376 Well, I think this hearing is really just to sort of
1377 take the temperature of what we have done with the last
1378 bill, the new bill is coming in. If we have to, we can do
1379 some technical adjustments with Chairman Shuster and
1380 others, but what we want to do is get the biggest bang for
1381 the buck. If you need more personnel and we have programs
1382 at the Federal level that warrant them, we want to make
1383 certain that you have adequate resources and personnel.

1384 I think it would be very good, and I will talk to the
1385 Secretary and we will ask the Secretary to see if he can
1386 send out a letter now saying that some of these standards
1387 have been set to the States and that we have maybe even a
1388 model of MOU and see if there is more interest in
1389 devolving. That is our intent, Congress' intent. Nobody
1390 has to do it, but letting the States know that it is there.

1391 We have hammered out some of the details to get us there
1392 and here is an example. I think that would be most
1393 helpful.

1394 Mr. Zachry, you know, you guys are building them and we
1395 want to get the maximum for the money. We need to know
1396 from you where there are an opportunities for moving this
1397 whole process forward faster, can be realized. And a lot
1398 it can be the administration. We have got new legislation
1399 in place but we can work with Secretary and others to get
1400 these things done.

1401 And I really appreciate Mr. Swonke risking his entire
1402 transportation program and his relationship with DOT to
1403 risk coming here today. You are the only one I could find
1404 in the entire country. The others ran like scalded
1405 rabbits.

1406 Mr. Swonke. My pleasure.

1407 Mr. Mica. Mr. DeSaulnier, do you have any questions?
1408 Welcome, sir.

1409 Mr. DeSaulnier. Since I walked in and you were talking
1410 about California environmental rules and Senator Boxer, I
1411 just had a question to the FHWA. In California we did get,
1412 when I was still in the Legislature, a lot of input from
1413 our contractors in Caltrans about water permits and I

1414 wonder without, from my perspective -- pardon the
1415 expression -- diluting the protection either in the
1416 California Environmental Quality Act or NEPA. Do you look
1417 at those kind of things in terms of effectiveness and maybe
1418 making it -- if there are obstacles to getting done
1419 efficiently? Because we get a lot of that from the
1420 contractors.

1421 Mr. Echikson. We absolutely have taken several steps
1422 to expedite those and coordinate those reviews. Just
1423 recently, we, along with the Corps of Engineers, reissued
1424 the Red Book, which is all about aligning environmental
1425 reviews. We're supporting, at least on the Federal side,
1426 the use of a single environmental document that all the
1427 different Federal agencies can and should rely upon. So we
1428 take several steps to try to coordinate that and expedite
1429 that. We have a permitting dashboard that's up for certain
1430 projects. We have an eNEPA project where all the
1431 environmental documents can be shared electronically
1432 instead of by hand with copies being sent around. It's all
1433 to try to expedite and reduce the time it takes to permit
1434 and proceed with a project.

1435 Mr. DeSaulnier. And do you measure those outcomes over
1436 time to see if they are still getting the environmental

1437 outcomes you want to but help facilitating getting the
1438 projects up and done?

1439 Mr. Echikson. I don't know that we've had it in place
1440 all those efforts long enough to make that sort of
1441 evaluation, but that's something we're always looking at to
1442 ensure that what we're doing is protective of the
1443 environment.

1444 Mr. DeSaulnier. And then just on a different subject
1445 matter but somewhat similar, I read on, I believe, your
1446 website or DOT's website about performance standards in
1447 general and that a lot of States are taking leadership. I
1448 think Washington, Minnesota, Massachusetts come to mind.
1449 So just watching what they are doing when it comes to
1450 performance standards for the future, both what you have in
1451 the act but potentially new ones, do you continue to engage
1452 with the State agencies when it comes to performance
1453 standards?

1454 Mr. Echikson. I'm not quite sure what you're referring
1455 to, but in terms of our Performance Management Program, we
1456 -- one of the important things, because it is a completely
1457 new program with a lot of new requirements for the States
1458 and localities, is we've engaged with our stakeholders
1459 extensively to ensure we get their input and to ensure that

1460 whatever we ultimately finalize is -- sort of minimizes the
1461 administrative burden that's being placed on them.

1462 Mr. DeSaulnier. So it would be twofold, and one would
1463 be just project delivery on the new capital side and then
1464 the maintenance and operations. So, for instance,
1465 Washington has something called a Gray Book where they
1466 actually every quarter they measure both investments in the
1467 corridor, capital investments improvements and maintenance
1468 and operations, and then they tell the public what the
1469 results have been in terms of congestion. So do we do
1470 things just to make sure that we are mindful that, as the
1471 expression goes, the States are the laboratories and we are
1472 keeping up with them or at least being apprised of it on
1473 both sides, project delivery and then maintenance and
1474 operations of the system?

1475 Mr. Echikson. I think I'd have to get back to you.
1476 I'm not quite sure. I mean in terms of our Performance
1477 Management Program, we're absolutely building off of what
1478 States are doing. We're trying to build a national
1479 program. In terms of project delivery, we work --
1480 obviously, the States are the laboratories of democracy,
1481 and if they've got great ideas, we've got a whole program
1482 called Every Day Counts that works very closely with the

1483 States and, you know, pushes forward new and innovative
1484 ideas so that we can expedite project delivery, one that
1485 Mr. Mica mentioned before about the bridge.

1486 We've got a whole new sort of bridge program where we
1487 install these bridges promptly. They're sort of precast
1488 prebuilt bridges that are dropped into place. That was all
1489 the result of our Every Day Counts program. So we're
1490 trying to do different things, working with the States to
1491 expedite project delivery, as well as ensure protection of
1492 the environment.

1493 Mr. DeSaulnier. Appreciate that. I appreciate that,
1494 Mr. Chairman. And if you can get me any material, I would
1495 be delighted to look at it.

1496 Mr. Echikson. Yes, sir.

1497 Mr. Mica. Any additional questions, Ms. Duckworth?

1498 [Nonverbal response.]

1499 Mr. Mica. Well, I want to thank you for participating
1500 today. We made some progress. We are also finding some
1501 new ways to develop projects. I attended a conference with
1502 Bobby Scott down in Orlando, assimilation conference, and
1503 one of the technologies we saw there that was developed for
1504 assimilation was training bridge inspectors. It is hard to
1505 replicate some of the training and also have bridges that

1506 are defective and going out. It is very costly, time-
1507 consuming. But I was quite impressed with some of the
1508 advances for training personnel, see what is out there,
1509 what is safe, some of the monitoring now we have of the
1510 bridges. And some of those are new programs. And you have
1511 got to put this stuff in your next testimony of new things
1512 you are doing.

1513 But there is a lot of good news. We always try to
1514 strive to do better, and you have given us some information
1515 today. We are going to ask you for additional questions,
1516 fill-in-the-blank. So we are going to leave the record
1517 open.

1518 I have the testimony of Michael P. Melaniphy, and he is
1519 the president and CEO of American Public Transportation,
1520 APTA. We will put that in the record. Without objection,
1521 so ordered.

1522 [The information follows:]

1523

1524 Mr. Mica. He is not with us but has a wealth of
1525 suggestions and recommendations, observations.

1526 Then, there being no further business, again, I want to
1527 thank our witnesses and, too, their participants for being
1528 with us today. And we will adjourn this hearing. Thank
1529 you.

1530 [Whereupon, at 4:12 p.m., the subcommittee was
1531 adjourned.]